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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,340	07/24/2006	Michael G. Marcoux	COR21 P306B	8838
277 7590 01/21/2009 PRICE HENEVELD COOPER DEWITT & LITTON, LLP 695 KENMOOR, S.E. P O BOX 2567 GRAND RAPIDS, MI 49501			EXAMINER JACKSON, BRANDON LEE	
			ART UNIT 3772	PAPER NUMBER
			MAIL DATE 01/21/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/563,340	Applicant(s) MARCOUX ET AL.	
	Examiner BRANDON JACKSON	Art Unit 3772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22, 66, 67 and 71-74 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22, 66-67, 71-74 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/3/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to amendments/arguments filed 9/25/2008.

Currently, claims 1-22, 66-69, and 71-74 are pending in the instant application.

Response to Arguments

Applicant's arguments with respect to claims 1-22, 66-67, and 71-74 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 66, and 71 are rejected under 35 U.S.C. 102(b) as being anticipated by Heinecke et al. (US Patent 5,738,642). Heinecke discloses a wound dressing (210) comprising a handle (212), a polymeric film (214) having first and second sides, wherein at least a portions of the polymeric film (214) is coated with an adhesive layer (216) on the first side, and the handle (212) is adhered to the second side of the polymeric film (214). The continuity of contact between the handle and the second surface of the polymeric film (214) is interrupted at a least a portion (250), which is a slot, of the edge of the handle (212). The handle (212) is textured by slots (250) through the handle (212). The slots (250) are fully capable of being oriented in a zig-zag pattern (i.e.

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diagonally) (col. 8, lines 14-17) relative to the edge of the handle (212), or parallel (col. 8, lines 5-7) to the handle (212). The texture is debossed by the die cuts made in the handle (212) in order to make the slot (250). The handle (212) is made of paper (col. 6, lines 10-13), which is relatively rougher than a polymeric film (214) and can be adhered (col. 6, lines 7-9) to the polymeric film (214). When the handle (212) is made of a paper (col. 6, lines 10-13) then there would be an electrostatic attraction between the handle (212) and the polymeric film (214). The handle (212) comprises a conductive layer, which is the low adhesion coating (col. 6, lines 30-46), and a non-conductive layer, which is the polymeric material (col. 6, lines 10-13). The handle (212) is fully capable of being adhered to the polymeric film (214) in a non-use state and separated from the polymeric film (214) during a transient configuration. The contact between the handle (212) and the polymeric film (214) are interrupted at the portion (250).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2-13, 14-22, and 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heinecke et al. (US Patent 5,738,642) in view of Dunshee et al. (US Patent D454,955). Heinecke discloses a wound dressing (210) comprising a handle (212), a polymeric film (214) having first and second sides, wherein at least a portions of the polymeric film (214) is coated with an adhesive layer (216) on the first side, and the handle (212) is adhered to the second side of the polymeric film (214). The continuity of contact between the handle and the second surface of the polymeric film (214) is interrupted at a least a portion (250), which is a slot, of the edge of the handle (212). The handle (212) is textured by slots (250) through the handle (212). The slots (250) are fully capable of being oriented in a zig-zag pattern (i.e. diagonally) (col. 8, lines 14-17) relative to the edge of the handle (212), or parallel (col. 8, lines 5-7) to the handle (212). The texture is debossed by the die cuts made in the handle (212) in order to make the slot (250). The handle (212) is made of paper (col. 6, lines 10-13), which is relatively rougher than a polymeric film (214) and can be adhered (col. 6, lines 7-9) to the polymeric film (214). When the handle (212) is made of a paper (col. 6, lines 10-13) then there would be an electrostatic attraction between the handle (212) and the polymeric film (214). The handle (212) comprises a conductive layer, which is the low adhesion coating (col. 6, lines 30-46), and a non-conductive layer, which is the polymeric material (col. 6, lines 10-13).

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Heinecke fails to disclose the texturing comprises the handle being knurled and the adhesive is printed on the handle in a pattern and the contact area between the handle and the polymeric film is about 70 to 90%. However, Heinecke teaches it is beneficial for the texture to be in patterns other than merely a linear cut because it prevents undesired folding of the handle (col. 8, lines 5-11). Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to modify the Heinecke handle to be knurled, in order to prevent accidental folding of the handle and to allow selective removal of the handle from the polymeric film.

Dunshee teaches an adhesive bandage comprising a handle (fig. 1, top layer) that substantially contacts the layer below and has a break in the contact area. Dunshee does not disclose the exact percentage of the total perimeter that the non-contact area encompasses, but it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the non-contact area to be between 10 and 30% because it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. Moreover, it would have been obvious to one of ordinary skill to modify the Heinecke with the break in the handle, as taught by Dunshee, in order to make the handle easier to grasp in order to remove the layer.

With respect to claims 6-7 and 10, the claims are device claims and therefore the process of how the slots/texture are obtained will not be considered because that is a method step to reach the end product, only the end product of the slots/texture will be considered.

With respect to claim 13, Heinecke fails to disclose how the adhesive is distributed upon the handle (212). However, it would be obvious to one of ordinary skill in the art to distribute the adhesive upon the handle in any pattern designed by the user as long as it sufficiently holds the handle upon the polymeric film.

Claim 72 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heinecke et al. (US Patent 5,738,642) in view of Heinecke et al. (US Patent 6,436,432). Heinecke discloses a wound dressing (210) comprising a handle (212), a polymeric film (214) having first and second sides, wherein at least a portions of the polymeric film (214) is coated with an adhesive layer (216) on the first side, and the handle (212) is adhered to the second side of the polymeric film (214). The continuity of contact between the handle and the second surface of the polymeric film (214) is interrupted at a least a portion (250), which is a slot, of the edge of the handle (212). The handle (212) is textured by slots (250) through the handle (212). The slots (250) are fully capable of being oriented in a zig-zag pattern (i.e. diagonally) (col. 8, lines 14-17) relative to the edge of the handle (212), or parallel (col. 8, lines 5-7) to the handle (212). The texture is debossed by the die cuts made in the handle (212) in order to make the slot (250). The handle (212) is made of paper (col. 6, lines 10-13), which is relatively rougher than a polymeric film (214) and can be adhered (col. 6, lines 7-9) to the polymeric film (214). When the handle (212) is made of a paper (col. 6, lines 10-13) then there would be an electrostatic attraction between the handle (212) and the polymeric film (214). The handle (212) comprises a conductive layer, which is the low

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adhesion coating (col. 6, lines 30-46), and a non-conductive layer, which is the polymeric material (col. 6, lines 10-13). Heinecke fails to disclose a plurality of discrete opening in the handle. However, Heinecke '432 teaches a dressing (210) comprising a plurality of discrete openings (230, 232, 234, 236). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Heinecke device with a plurality of discrete openings, as taught by Heinecke '432, in order to allow piecemeal application to ensure the device is applied in the correct alignment.

Claims 73-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heinecke et al. (US Patent 5,738,642) in view of Dozier et al. (US Patent 7,135,606). Heinecke substantially discloses the claimed invention; see rejection to claims 1 and 71 above. Heinecke fails to disclose a tab on the handle that projects into the window. Dozier teaches a dressing (10) comprising a handle (20) adhered (18) to a layer (14) with a tab (21) projecting inward (fig. 4). The tab (21) is substantially less aggressively adhered to the layer below than the rest of the handle (20), because adhesive is not disposed on the tab. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the handle with the tab, as taught by Dozier, in order to allow the user to easily grasp the handle for removal.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **BRANDON JACKSON** whose telephone number is (571)272-3414. The examiner can normally be reached on Monday - Friday 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571)272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brandon Jackson/
Examiner, Art Unit 3772

BLJ

/Patricia Bianco/
Supervisory Patent Examiner, Art Unit 3772